

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI

JOHN KELLY AND LINDA KELLY,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No.
	)	
AUTO- OWNERS INSURANCE	)	
COMPANY,	)	
	)	
<u>Serve:</u> Missouri Dept. of Insurance	)	
301 West High St., Rm. 530	)	
Jefferson City, MO 65101	)	
	)	
Defendant.	)	

**PETITION**

**COUNT I**

COMES NOW Plaintiffs, John Kelly and Linda Kelly, by and through their attorneys of record and for their claim and cause of action against the Defendant, Auto-Owners Insurance Company, states and alleges as follows:

1. That Plaintiffs are residents of Reynolds County, State of Missouri.
2. That Defendant Auto Owners Insurance Company does business in the City of St. Louis, making jurisdiction proper.
3. Upon information and belief, Defendant Auto-Owners Insurance Company ("Auto Owners") is an insurance company which is licensed to conduct and does conduct the systematic and continuous business of insurance within Missouri, including St. Louis City. Auto- Owners Insurance has an office or agent for the transaction of its usual and customary



business in St. Louis City, including independent agents who have the authority to bind Auto-Owners and who solicit and submit insurance applications for Auto-Owners.

4. In consideration of the payment of a stated premium, Auto-Owners Insurance Company made and issued to Plaintiff its policy of automobile insurance insuring Plaintiff and their vehicle.

5. Among other things, the automobile insurance policy provided "Underinsured Motorist" coverage.

6. The said policy was in full force and effect at all relevant times.

7. On or about May 16, 2011, Plaintiffs were involved in a motor vehicle collision caused by Kylee Barton who was operating her automobile on Missouri Highway 21 in the County of Reynolds, State of Missouri, when Defendant carelessly and negligently made a turn onto Rt. H, colliding with Plaintiffs' vehicle.

8. As a direct and proximate result of Barton's carelessness and negligence as described herein, Plaintiffs suffered injuries.

9. As a direct and proximate result of Defendant Barton's carelessness and negligence as described herein, Plaintiff John Kelly suffered injuries to his neck, head and chest and will continue to experience pain and suffering as a result of his injuries in the future.

10. As a direct and proximate result of the Defendant Barton's carelessness and negligence and the injuries to Plaintiff described herein, Plaintiff has incurred medical expenses in an amount in excess of \$50,000.00 and is reasonably certain to sustain additional expense in the future on account of medical treatment.

11. As a direct and proximate result of Defendant Barton's carelessness and negligence as described herein, Plaintiff Linda Kelly suffered injuries to her chest, neck, back, arms, legs and head and will continue to experience pain and suffering as a result of her injuries in the future.

12. As a direct and proximate result of the Defendant Barton's carelessness and negligence and the injuries to Plaintiff described herein, Plaintiff has incurred medical expenses in excess of \$50,000.00 is reasonably certain to sustain additional expense in the future on account of medical treatment.

13. Driver Barton carried auto insurance with Automobile Club Inter-Insurance Exchange, with a policy limit of \$100,000.00.

14. This policy limit has been exhausted by Plaintiffs, receiving settlement of the policy limits on or about April 2, 2015.

15. That Plaintiffs seek to recover from Defendant Auto-Owners under their underinsured motorist coverage with Defendant.

WHEREFORE, Plaintiff Linda Kelly, prays judgment against Defendant Auto-Owners Insurance Company, in excess of \$50,000.00, along with their costs incurred herein.

**COUNT II-LOSS OF CONSORTIUM OF JOHN KELLY**

COMES NOW Plaintiff, John Kelly, by and through his attorneys of record and for his claim and cause of action against the Defendant, Auto-Owners Insurance Company, states and alleges as follows:

16. Plaintiff restates and re-alleges paragraphs 1-15 as thought fully set out herein.

17. That as a result of Linda Kelly's injuries, John Kelly has lost the benefit of her services and love and affection.

WHEREFORE, John Kelly prays this Court grant him judgment against Auto-Owners Insurance Company and for any other relief this Court deems just.

By /s/ Andrew G. Toennies

Andrew G. Toennies #44689

LASHLY & BAER, P.C.

714 Locust Street

St. Louis, MO 63101

(314) 621-2939

(314) 621-6844 (Fax)

Attorney for Plaintiff



## IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

Judge or Division: BRYAN L HETTENBACH	Case Number: 1622-CC01133	Process Server 1
Plaintiff/Petitioner: JOHN KELLY	Plaintiff's/Petitioner's Attorney/Address ANDREW GERARD TOENNIES 714 LOCUST STREET ST. LOUIS, MO 63101	Process Server 2
Defendant/Respondent: AUTO OWNERS INSURANCE COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Process Server 2
Nature of Suit: CC Breach of Contract		(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: AUTO OWNERS INSURANCE COMPANY

Alias:

 MISSOURI DEPT OF INSURANCE  
 301 W HIGH STREET ROOM 530  
 JEFFERSON CITY, MO 65101

COLE COUNTY, MO

COURT SEAL OF



CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

APRIL 25, 2016

Date

 Thomas Kloeppinger  
 Circuit Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_

\_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

 Summons \$ \_\_\_\_\_  
 Non Est \$ \_\_\_\_\_  
 Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
 Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI

JOHN KELLY AND LINDA KELLY, )

Plaintiff, )

vs. )

Cause No. 1622-CC01133

AUTO- OWNERS INSURANCE )  
COMPANY, )

Serve: Missouri Dept. of Insurance )  
301 West High St., Rm. 530 )  
Jefferson City, MO 65101 )

Defendant. )

**MOTION FOR APPOINTMENT OF SPECIAL PROCESS SERVER**

Plaintiffs, for their Motion For Appointment of Special Process Server, requests the appointment by the Circuit Clerk for Jose Pineiro, Missouri Process Serving, LLC, 1430 Washington Ave, Suite 220, St Louis, MO 63103, telephone number (314) 825-5512, natural persons of lawful age, to serve the Summons and Petition in this cause on the Defendants herein. This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

Serve:

Missouri Dept. of Insurance  
301 West High St., Rm. 530  
Jefferson City, MO 65101

By /s/ Andrew G. Toennies

Andrew G. Toennies #44689

LASHLY & BAER, P.C.

714 Locust Street

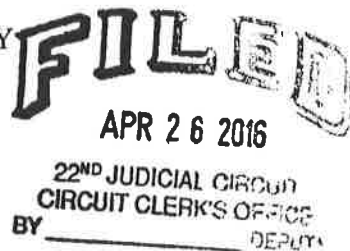
St. Louis, MO 63101

(314) 621-2939

(314) 621-6844 (Fax)

Attorney for Plaintiff

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI



JOHN KELLY AND LINDA KELLY, )

Plaintiff, )

vs. )

Cause No. 1622-CC01133

AUTO- OWNERS INSURANCE )  
COMPANY, )

Serve: Missouri Dept. of Insurance )  
301 West High St., Rm. 530 )  
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Serve:  
Missouri Dept. of Insurance  
301 West High St., Rm. 530  
Jefferson City, MO 65101

*Handwritten signature and initials, possibly "S. Pineiro" and "D. Pineiro".*

By /s/ Andrew G. Toennies

Andrew G. Toennies #44689  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101  
(314) 621-2939  
(314) 621-6844 (Fax)

Attorney for Plaintiff



## IN THE 22ND JUDICIAL CIRCUIT COURT, CITY OF ST LOUIS, MISSOURI

Judge or Division: BRYAN L HETTENBACH	Case Number: 1622-CC01133	Special Process Server 1
Plaintiff/Petitioner: JOHN KELLY	Plaintiff's/Petitioner's Attorney/Address ANDREW GERARD TOENNIES 714 LOCUST STREET ST. LOUIS, MO 63101	Special Process Server 2
Defendant/Respondent: AUTO OWNERS INSURANCE COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Special Process Server 3
Nature of Suit: CC Breach of Contract		(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: AUTO OWNERS INSURANCE COMPANY

Alias:

MISSOURI DEPT OF INSURANCE  
301 W HIGH STREET ROOM 530  
JEFFERSON CITY, MO 65101

SPECIAL PROCESS SERVER

COURT SEAL OF



CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

June 9, 2016

Date

Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$. \_\_\_\_\_ per mile)

Mileage \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



## IN THE 22ND JUDICIAL CIRCUIT COURT, CITY OF ST LOUIS, MISSOURI

Judge or Division: BRYAN L HETTENBACH	Case Number: 1622-CC01133	Special Process Server 1
Plaintiff/Petitioner: JOHN KELLY	Plaintiff's/Petitioner's Attorney/Address ANDREW GERARD TOENNIES 714 LOCUST STREET ST. LOUIS, MO 63101	Special Process Server 2
Defendant/Respondent: AUTO OWNERS INSURANCE COMPANY	Court Address: CIVIL COURT'S BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Special Process Server 3
Nature of Suit: CC Breach of Contract		(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: AUTO OWNERS INSURANCE COMPANY  
Alias:  
MISSOURI DEPT OF INSURANCE  
301 W HIGH STREET ROOM 530  
JEFFERSON CITY, MO 65101

**SPECIAL PROCESS SERVER**

**COURT SEAL OF**  
  
CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

**June 9, 2016**  
Date

*Thomas Hoepfinger*  
Clerk

Further Information:

**Sheriff's or Server's Return**

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

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☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to MO DEPT OF INSURANCE (name) designee (title).

☐ other

Served at 301 W. High St., Room 530, Jefferson City MO 65101 (address)

in COLE (County/City of St. Louis), MO, on 06/09/16 (date) at 3:12 pm (time).

DAVID M. ROBERTS  
Printed Name of Sheriff or Server

*David M. Roberts*  
Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal) Subscribed and sworn to before me on 6-10-16 (date)

My commission expires: 12-4-16 (date)

*Patricia J. Roberts*  
Notary Public

**Sheriff's Fees**

Summons	\$	
Non Est	\$	
Sheriff's Deputy Salary	\$	10.00
Supplemental Surcharge	\$	
Mileage	\$	( miles @ \$. per mile)
Total	\$	

**PATRICIA J. ROBERTS**  
Notary Public-Notary Seal  
STATE OF MISSOURI-County of Cole  
Commission #12481691  
My Commission Expires Dec. 4, 2016

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI

JOHN KELLY AND LINDA KELLY, )

Plaintiff, )

vs. )

AUTO- OWNERS INSURANCE )  
COMPANY, )

Defendant. )

Cause No. 1622-CC01133

**MEMORANDUM FOR THE CLERK**

COMES NOW, Plaintiffs and hereby files her Return of Service on Defendant from  
Special Process Server. Defendant served on June 10, 2016.

By /s/ Andrew G. Toennies

Andrew G. Toennies #6212112  
LASHLY & BAER, P.C.  
714 Locust Street  
St. Louis, MO 63101  
(314) 621-2939  
(314) 621-6844 (Fax)

Attorney for Plaintiff

State of Missouri

Department of Insurance, Financial Institutions and  
Professional Registration



TO: Corporate Secretary (or United States Manager or Last Appointed General Agent) of

AUTO OWNERS INSURANCE COMPANY  
CT CORPORATION SYSTEM  
120 SOUTH CENTRAL AVE, SUITE 400  
CLAYTON, MO 63105

FILED  
22ND JUNE 2016  
2016 JUN 30 AM 11:2  
JUN 27 2016

RE: Court: St. Louis City Circuit Court, Case Number: 1622-CC01133

You will take notice that original process in the suit against you, a copy of which is attached hereto and sent to you by certified mail, was duly served upon you at Jefferson City, Missouri, by serving the same on the Director of the Department of Insurance, Financial Institutions and Professional Registration of the state of Missouri, Dated at Jefferson City, Missouri this 9th day of June, 2016.

Director of Insurance, Financial Institutions  
and Professional Registration

AFFIDAVIT

State of Missouri,

ss.

County of Cole,

The undersigned Director of the Department of Insurance, Financial Institutions and Professional Registration or the Director's designated agent, hereby makes oath and certifies the original of the above notice to the above addressee was mailed at the United States Post Office in Jefferson City, Missouri on June 14, 2016 by first class certified mail prepaid as provided by section 375.906.5, RSMo. and Supreme Court Rule 54.15

Director, Department of Insurance, Financial Institutions and  
Professional Registration

By:

Subscribed and sworn to before me this 14th day of June, 2016.

My commission expires



NOTARY PUBLIC KATHRYN LATIMER  
My Commission Expires  
March 4, 2020  
Cole County  
Commission #12418395

State of Missouri

Department of Insurance, Financial Institutions and  
Professional Registration



TO: Corporate Secretary (or United States Manager or Last Appointed General Agent) of

AUTO OWNERS INSURANCE COMPANY  
CT CORPORATION SYSTEM  
120 SOUTH CENTRAL AVE, SUITE 400  
CLAYTON, MO 63105

FILED  
22ND JUDICIAL CIRCUIT  
2016 JUN 30 AM 11:2  
MISSOURI

RE: Court: St. Louis City Circuit Court, Case Number: 1622-CC01133

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Director of Insurance, Financial Institutions  
and Professional Registration

AFFIDAVIT

State of Missouri,

ss.

County of Cole,

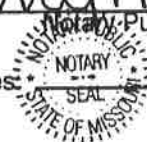
The undersigned Director of the Department of Insurance, Financial Institutions and Professional Registration or the Director's designated agent, hereby makes oath and certifies the original of the above notice to the above addressee was mailed at the United States Post Office in Jefferson City, Missouri on June 14, 2016 by first class certified mail prepaid as provided by section 375.906.5, RSMo. and Supreme Court Rule 54.15

Director, Department of Insurance, Financial Institutions and  
Professional Registration

By:

Subscribed and sworn to before me this 14th day of June, 2016.

My commission expires



NOTARY PUBLIC KATHRYN LATIMER  
My Commission Expires  
March 4, 2020  
Cole County  
Commission #12418395